

## **LBNL – PROCUREMENT STANDARD PRACTICES**

**Section: 44 Subcontracting Policies and Procedures**

**Subject: 44.1 Intra-University Transactions**

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**PURPOSE:** This standard practice (SP) prescribes the manner in which research and supporting efforts may be acquired from campuses of the University of California (University).

**POLICY:** Although work under the Laboratory's Prime Contract will be accomplished primarily by Laboratory employees and subcontractors, the Laboratory may also use existing expertise and resources at the University campuses.

**SCOPE:** This SP applies to all agreements for research and supporting efforts with a University campus.

### **DEFINITIONS:**

**Campus** A campus includes any organization of the University of California other than Los Alamos National Laboratory, Lawrence Livermore National Laboratory, or Lawrence Berkeley National Laboratory.

**Intra-University Transaction (IUT)** An IUT is a cost reimbursement agreement with a University campus for research or support efforts under the Laboratory's Prime Contract.

**Property** As used herein, the term property means all property, both real and personal. It includes facilities, materials, supplies, equipment, special tooling, and agency-peculiar property. Personal property means property of any kind, except for real estate and interests therein (such as easements and rights-of-way), and permanent fixtures which are government-owned, chartered, rented, or leased from commercial sources by and in the custody of DOE or its designated contractors.

**Research** As used herein, the term research means any work or effort that principally involves theoretical analysis, exploration, or experimentation, or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. It includes any necessary personnel, equipment, materials, supplies, or services needed to fulfill the research requirement.

**Supporting Effort** A supporting effort is the provision of equipment, materials, supplies, or services unrelated to a research requirement. It excludes the provision of services to a Laboratory employee residing at a campus. The direct charges, if any, are charged pursuant to a campus-wide recharge policy for the type of service provided.

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### **PROCEDURES:**

#### **Initiating an IUT**

An IUT is initiated through a purchase request (PR) by an individual with sufficient funding authority. The PR must provide the following information:

- A description of the work to be performed;
- The names, organizational affiliations, and titles of the campus principal investigator and/or other personnel who will perform the work;
- An assessment of the capabilities of campus personnel to perform the intended work, including the campus' special capabilities;
- The available funding; the period during which the funding will be available, and the account code information;
- A proposal, including a breakdown, if known, of the costs to be incurred (e.g., salaries, travel, materials, services, property);
- An itemized list of any property to be provided by the Laboratory to the campus; and
- Information pertaining to applicable Laboratory site-related requirements (see Exhibit 44.1.a, *Intra-University Transaction Agreement, Attachment A*).

The procurement specialist must ensure that the proposed work is appropriate for award to a University campus. While there is no specific listing of research topics or supporting efforts that are appropriate for the campuses to perform for the Laboratory, the determination of appropriateness should take into account decisional factors, such as efficiency of performance, scheduling, security, control of production or performance, and cost.

Situations of the type described in the *Reviews and Approvals, Procurement Manager* section should be brought to the attention of the Procurement Manager.

#### **Proposal**

A formal, signed proposal will be obtained from the campus for IUTs in excess of \$100,000. A proposal must be endorsed by the campus' appropriate administrative office. Upon receipt of the proposal, the Laboratory must evaluate the proposal to ensure that the proposal is reasonable and that current funding can support the proposed costs.

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### Limitations

**Costs** — An IUT is a cost-reimbursable agreement (see Exhibit 44.1.a, *Intra-University Transaction Agreement*). Except in those cases where a prior agreement exists between a Laboratory and a campus, overhead must be charged to the Laboratory in accordance with University-wide procedures which, when charged, are audited rates approved by a federal agency responsible for rate approval for campus overhead and at no higher rates than those charged for other federally funded research.

Personnel costs must be based on wage rates determined in accordance with University policy and charged at the same rate to the Laboratory as is charged to other federally funded research.

DOE approval is required for any IUT that results in a cost reimbursement of \$250,000, or more.

**Property** — Title to property with a value of less than \$5,000, acquired by a campus under an IUT, will be retained by the campus.

Property provided to a campus by the Laboratory or property acquired by a campus with a value of \$5,000 or greater under an IUT is government-owned property and title shall remain with the government unless otherwise approved by DOE. Government-owned property shall be labeled and controlled in accordance with the Laboratory's Property Management Program (see SP 45.1, *Government Property*).

**Foreign Travel** — DOE approval is required in advance of any foreign travel to be charged to the Laboratory. Campus personnel must complete:

- DOE Form 1512.1, *Request for Approval of Foreign Travel* (Note: Section I.a of DOE form 1512.1 must be completed for sensitive travel only.)
- *Foreign Travel Request and Authorization Form*

The above forms are to be submitted by the campus to the Laboratory IUT Technical Representative. The IUT Technical Representative will submit the completed forms to the Travel Office.

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Requests for foreign travel should be submitted to the Laboratory Travel Office no later than 21 days prior to departure; 30 days for travel to sensitive countries.

**Intellectual Property** — Intellectual property rights are governed as if the campus were a nonprofit subcontractor under the Prime Contract.

**Annual Review** — All IUTs that exceed one year in term must be reviewed annually to confirm the availability of funds.

### **Invoicing**

Invoices will be prepared in accordance with campus' standard business practices, consistent with invoices prepared for government contracts, and will be in accordance with the campus' cost proposal. The invoice shall be certified, reference the IUT number, and include the following standard line items of expense categories when applicable:

- Consultants
- Property
- Fringe Benefits
- Indirect Costs
- Salaries
- Subcontracts
- Supplies/Expenses
- Travel
- Other Direct Costs (e.g., rent)

### **Review of Invoice**

Certified invoices that are in accordance with the campus' cost proposal normally should not be questioned or require additional documentation. The Laboratory procurement specialist shall confer with the Laboratory IUT technical representative or requestor, and the campus' principal investigator or representative, as necessary, regarding any questions on a campus invoice, to determine if the costs should be reimbursed to the campus. The IUT shall be modified if appropriate.

### **Disagreements**

If a campus and Laboratory are unable to reach agreement on unreimbursed costs or nonperformance, the claim must be forwarded to the UC Laboratory Operations Office, Executive Director for Business and Finance, for resolution.

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### **Documentation**

IUTs at Any Dollar Value	<p>All IUTs must be formalized in writing, regardless of the dollar value. The IUT file must include the following documentation:</p> <ul style="list-style-type: none"><li>• The name and organization of the individual requesting the IUT;</li><li>• An approved cost proposal;</li><li>• The basis for determining the appropriateness of assigning research or supporting efforts to a campus, including the campus' special capabilities;</li><li>• Identification of any significant restrictions in the Prime Contract that apply to the particular research or supporting effort;</li><li>• The annual review for IUTs that exceed one year in term; and</li><li>• DOE approval, if required.</li></ul>
IUTs in Excess of \$25,000	<p>A fully completed, approved, and signed IUT justification form shall be obtained from the Laboratory IUT technical representative or requestor and shall be placed in the IUT file for all IUTs in excess of \$25,000.</p>
IUTs in Excess of \$100,000	<p>The procurement specialist must prepare and sign a memorandum to the IUT file for all IUTs in excess of \$100,000, containing the following information:</p> <ul style="list-style-type: none"><li>• Memorandum Agreement Number,</li><li>• Campus/Department</li><li>• Estimated Cost,</li><li>• Term of the Agreement,</li><li>• LBNL Division/Program,</li><li>• Name of LBNL's Technical Coordinator,</li><li>• Name of LBNL's Subcontract Administrator,</li><li>• Background/Purpose,</li><li>• Description of the Transaction,</li><li>• Source Selection,</li><li>• Price Analysis, and</li><li>• Conclusion.</li></ul>

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**Format** See Exhibit 44.1.a, *Intra-University Transaction Agreement*, for the standard format to be used for an IUT.

### **REVIEWS/ APPROVALS:**

**Procurement Manager** The Procurement Manager will consult with the UC Laboratory Operations Office, Executive Director for Business and Finance when, in his or her judgment, a proposed IUT involves an appearance of impropriety or could result in a disallowance of cost by DOE under the Prime Contract. Such circumstances may include, but are not limited to, proposed agreements that:

- Involve a principal investigator who has an appointment with both the Laboratory and the campus when the funds are being provided by the Laboratory organization with whom the principal investigator holds an appointment; or
- Involve use of an IUT to circumvent the Laboratory's normal subcontracting process.

**DOE** DOE approval is required for any IUT that:

- Results in a cost reimbursement of \$250,000 or more;
- Is for a supporting effort in excess of \$100,000;
- Involves direct reimbursement (as opposed to an overhead rate) of the operating costs of a campus organization;
- Involves the transfer of title to government-owned property to the campus for the purpose of performing research or supporting efforts for property over \$5,000, or not identified in the Agreement;
- Involves payment in advance of the actual incurrence of costs;
- Involves the use of a campus to accomplish technology development supporting efforts (e.g., a Cooperative Research and Development Agreement); or
- Involves utilities (steam, gas, electricity, telephones, telephone lines, water, and sewage), valued at \$500,000 or more, which are furnished to campus building space occupied by LBNL-funded personnel.

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### **RESPONSIBILITIES:**

**Procurement  
Specialist**

The procurement specialist must ensure that:

- The proposed work is appropriate for assignment to a University campus;
- The IUT is authorized by an individual with an appropriate level of funding authority;
- A formal, signed proposal for research and supporting efforts is obtained for IUTs in excess of \$100,000;
- An IUT justification form is obtained from the Laboratory IUT technical representative or requestor for IUTs in excess of \$25,000;
- A memorandum is prepared to the IUT file for IUTs in excess of \$100,000;
- The campus' proposed costs are reasonable;
- All property acquired by a campus with a value of \$5,000 or more or furnished to the campus by the Laboratory under an IUT is treated and dispositioned as government-owned property;
- Foreign travel is approved in advance by DOE;
- All IUTs written for more than one year are reviewed annually for available funds;
- The IUT file is documented in accordance with the procedures above; and
- Approval by DOE and/or coordination with the UC Laboratory Operations Office, Executive Director for Business and Finance, are obtained under the procedures above.

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### **INTRA-UNIVERSITY TRANSACTION AGREEMENT NO. \_\_\_\_\_**

**between**

**Lawrence Berkeley National Laboratory**

**and**

**University of California, \_\_\_\_\_**

THIS INTRA-UNIVERSITY TRANSACTION AGREEMENT (hereinafter called Agreement) is entered into by and between the University of California, Lawrence Berkeley National Laboratory (hereinafter called Laboratory) and the University of California [ *campus* ] (hereinafter called Campus) for [ *work/research* ] authorized under Contract [ *Prime Contract number* ] between The Regents of the University of California (The Regents) and the United States Department of Energy (DOE).

#### **I. SCOPE OF WORK**

The [ *work/services* ] to be provided under this Agreement shall be in accordance with [ *proposal/ scope of work* ] entitled [ *title* ], which is incorporated herein by [ *reference/ attachment* ]. The Scope of Work may be modified by mutual agreement of the parties to this Agreement. [Y/N] Additional requirements are delineated in Attachment A.

#### **II. TERM**

The term of this Agreement shall be from the date of the last signature of the parties under Article XII, Acknowledgment through [ *date* ].

[OR]

The term of this Agreement shall be [ *date* ] through [ *date* ].

Except as necessary to comply with any reporting and closeout procedures, the Campus shall discontinue performance of work on the last date cited above unless Laboratory extends the period of performance by written notice to the Campus, as agreed upon by both parties.

#### **III. EXPENDITURES**

- A. The estimated cost of work to be performed under this Agreement is [ *amount* ], and is based on the Campus' cost proposal dated [ *date* ], which is hereby incorporated into this Agreement. The Laboratory has currently obligated [ *amount* ] as the maximum amount to be reimbursed to the Campus.
- B. Costs incurred prior to the start date of this Agreement as stated above in Article II, *Term*, or not in accordance with the Campus' cost proposal are not authorized without prior written authorization from the Laboratory procurement representative.



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The Campus shall not incur costs and Laboratory shall not be obligated to make any payments under the Agreement in excess of the amount obligated or not in accordance with the Campus' cost proposal in the absence of a written modification or notice from Laboratory-authorized personnel named in Article XI, *Authorized Personnel*.

- C. If, and to the extent the amount obligated by Laboratory is increased, any costs the Campus incurs before the increase that are in excess of the amount previously obligated shall be allowable upon Laboratory approval to the same extent as if incurred afterward.

### **IV. FISCAL AND ADMINISTRATIVE STANDARDS**

Allowable costs and administration shall be governed by standards set forth in Office of Management and Budget Circulars A-21 and A-110 and the Prime Contract.

### **V. INVOICING AND PAYMENT**

- A. Invoices shall be prepared in accordance with Campus' standard business practices, consistent with invoices prepared for government contracts. The invoice shall reference the IUT number, the period covered, and include the following standard line items of expense categories when applicable: salaries, fringe benefits, travel, supplies/expenses, property, subcontracts, consultants, other direct costs (e.g., rent), and indirect costs or facility and administration costs.

Invoices shall also include a certification similar to the following, signed by a responsible official of the Campus:

“The undersigned certifies that the information set forth herein is true and correct and may be used as a basis for payment for work.”

[Y/N] See Attachment A for additional requirements regarding invoices for acquired property.

- B. Campus shall submit invoices no more frequently than monthly to:

[ *Name and Address of Laboratory* ].

Invoices should not be submitted more than ninety (90) days in arrears.

- C. Payment shall be made by check to The Regents of the University of California, including the remittance invoice number, and mailed to the address indicated on the invoice.
- D. Campus will notify Laboratory when incurred costs approach 75% of obligated funds.

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- E. Upon completion of the work and delivery of all required deliverables and reports, the Campus shall provide Laboratory with an invoice marked "Final Invoice," notifying Laboratory that no further invoices and charges are forthcoming. Final payment will be made upon completion of the Laboratory's close-out requirements and will be subject to applicable adjustments.

### **VI. PROPERTY**

- A. If this Agreement is for research, the Campus may retain title to all property it acquires under this Agreement with a value of less than \$5,000. Otherwise, all other property acquired by the Campus under this Agreement shall become government property upon delivery to the Campus or Laboratory or upon receipt of payment, whichever ever occurs first.
- B. The following property and/or services shall be furnished to Campus by Laboratory or purchased by Campus under this Agreement. Prior written Laboratory approval is needed to purchase any property not identified below.

Laboratory-Furnished Property:

*[ List all property to be furnished or include NONE ]*

Laboratory-Furnished Services:

*[ List all services to be furnished, such as computer time, or include NONE ]*

Campus-Purchased Property:

*As identified in the Campus' cost proposal dated [ date ] [ OR List all property proposed by the Campus for purchase or include NONE ] [Only the end products to be acquired and reimbursed as direct items of cost should be listed; e.g., manufactured items, not consumable supplies or raw materials.]*

The Campus agrees that all property furnished or purchased under this Agreement shall, during its term, only be used for performing this Agreement unless authorized in writing by the Laboratory's procurement specialist.

- C. Upon completion or termination of the work, the Campus shall issue a report to the Laboratory identifying all Laboratory-furnished property and Campus-acquired government-owned property under this Agreement. The Laboratory shall issue disposition instructions for such property within 120 calendar days, excluding property to which the Campus retains title.

### **VII. INTELLECTUAL PROPERTY**

The parties hereby acknowledge that intellectual property rights are governed as if the Campus were a nonprofit subcontractor under the Prime Contract.

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### **VIII. TRAVEL APPROVAL**

Any foreign travel or Laboratory-specified travel to be incurred under this Agreement requires the advance authorization and approval of the Laboratory. In the case of foreign travel, the Laboratory shall secure DOE approval. Requests for such travel shall be made to the Laboratory Travel Office no later than 21 days prior to departure; 30 days for travel to sensitive countries. All Laboratory travel shall require approval from the Laboratory Travel Office. If approval is not obtained before departure, Campus may be liable for the expenses incurred.

### **IX. REVIEWS AND APPROVALS**

By executing this Agreement, the individual signing below represents that he or she has the authority to execute this Agreement on behalf of the Campus and represents that all reviews and approvals required by The Regents/Campus policies have been conducted and obtained, including those pertaining to environment, health, safety, human subjects, and animal subjects.

### **X. TERMINATION**

This Agreement may be terminated without cause by either party upon 30 days prior written notice to the other party. The Laboratory shall reimburse Campus for noncancellable obligations and allowable costs incurred to the effective date of termination.

### **XI. AUTHORIZED PERSONNEL**

The following individuals or their superiors are authorized to negotiate, modify, or terminate this Agreement:

[ *Name of individual* ]  
[ *Title of individual* ]  
[ Lawrence Berkeley National Laboratory ]  
[ *Address of Laboratory* ]

[ *Name of individual* ]  
[ *Title of individual* ]  
[ *Name of Campus* ]  
[ *Address of Campus* ]

The following individuals are authorized within the scope of work to provide technical direction for the Laboratory:

[ *Name of individual(s)* ]

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**XII. ACKNOWLEDGMENT**

The parties to this Agreement hereby acknowledge concurrence with the Scope of Work and other provisions under this Agreement.

**AUTHORIZED: Lawrence Berkeley National Laboratory**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**ACCEPTED: [ *Name of Campus* ]**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

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### **ATTACHMENT A to INTRA-UNIVERSITY TRANSACTION AGREEMENT NO. \_\_\_\_\_**

**[Y/N]**

#### **VISITS OR WORK AT LAWRENCE BERKELEY NATIONAL LABORATORY OR LAWRENCE BERKELEY NATIONAL LABORATORY-CONTROLLED SITE**

Campus personnel visiting or performing any work at the Laboratory or other Laboratory-controlled site will be subject to and must conduct the visit or work in accordance with applicable Laboratory requirements pertaining to security and site access; environment, safety, and health (ES&H); integrated safety management (ISM); and vehicle operation. While at the Laboratory, Campus personnel must possess and properly display badging appropriate for the area being accessed. Campus personnel shall follow the instructions of Laboratory technical representatives designated in Article XI, *Authorized Personnel*, with respect to the applicable site-related requirements.

**[Y/N]**

#### **DELIVERABLES AND/OR REPORTS [Modify as Appropriate]**

A. The Campus shall prepare and submit the following deliverable(s) to the Laboratory:

[ *Describe the deliverable(s)* ]

B. The Campus shall prepare and submit the following report(s) to the Laboratory:

#### **[ Add provisions for Financial and Progress Reports if Appropriate ]**

Final Report - A final report shall be submitted upon completion of the work and contain a comprehensive summary of all work results and conclusions. The format and scope of the Final Report shall be acceptable to the Laboratory Technical Representative. If so requested, a draft copy of the Final Report shall be provided to the Laboratory Technical Representative for review prior to final submittal.

C. Distribution of Reports - All reports shall be separately addressed and transmitted to:

University of California  
Lawrence Berkeley National Laboratory  
Attention: (Intended Recipient; see below)  
[ *Address* ]

<u>Type of Report</u>	<u>No. of Copies</u>	<u>Recipient</u>
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**[Y/N]**

### **INVOICES FOR ACQUIRED PROPERTY**

All invoices requesting reimbursement for any property acquired by the Campus with a value of \$5,000 or more shall be accompanied by a list of the property sufficient for tracking in the Laboratory Property Management database.

*[ ADD OTHER SPECIAL LAB-SPECIFIC REQUIREMENTS AS NECESSARY ]*